IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO: 7962 of 2005

Between:

Diocese of Adilabad Education Society, Bishops House, Manchiryal,
Adilabad District, rep. by its Correspondent.

..... PETITIONER

AND

1 State of A.P., rep by its. Secretary, School Educational,
Secretariat, Hyderabad.
2 Commissioner of School Education, A.P., Hyderabad.
3 District Educational Officer, Adilabad District, Adilabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ more in the nature of a writ of Mandamus declaring the action of the 3rd respondent in not fixing up the date for the conduct of interview and send his nominee for selection of the candidates in the Schools run by the petitioner society purporting to act under the general ban imposed by the Govt. in Memo No.12080/COSE/A2/2004-5, Edn., dt.20-10-2004 as being arbitrary and illegal, violative of Articles 14 and 30(1) of the Constitution of India and as well as the directions of this Hon'ble High Court in W.P.No.5484/04 dt.02-08-2004 and consequently direct the DEO to take necessary steps for the smooth conduct of interviews in the Institutions petitioner Society.

Counsel for the Petitioner: MR.CH.SAMSON BABU

Counsel for the Respondents: GP FOR SCHOOL EDUCATION

The Court at the stage of admission made the following:

HONOURABLE MS.JUSTICE G.ROHINI

WRIT PETITION NO.7962 OF 2005

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the 3rd respondent in not fixing up the date for the conduct of interview and send his nominee for selection of the candidates in the Schools run by the petitioner society purporting to act under the general ban imposed by the Govt. in Memo No. 12080/COSE/A2/2004-4, Edn., dt.20-10-2004 as being arbitrary, illegal and violative of Articles 14 and 30(1) of the Constitution of India and as well as the directions of this Court in W.P.No.5484/04 dated 02-08-2004 and consequently direct the DEO to take necessary steps for the smooth conduct of interviews in the Institutions of petitioner Society.

It is stated that some posts fell vacant in the petitioner's Schools and for filling up the said posts, the petitioner has already taken all the necessary steps and the Competent Authority has also accorded the necessary permission, however the appointments could not be made in view of the General Ban on Recruitment imposed by the Government under the Memo dated 20-10-2004.

The contention of the petitioner is that the General Ban under Memo dated 20-10-2004 cannot be made applicable to the case on hand since the Competent Authority has accorded necessary permission to fill up the posts much prior to the ban imposed under the Memo dated 20-10-2004. In support of the said contention, the learned Counsel for the petitioner has relied upon a decision of this Court in **W.P.No.22188 of 2004**, wherein this Court has dealt with an identical issue. This Court, having considered the scope of Memo dated 20-10-2004, held that in the Memo dated 20-10-2004 though it is stated that no new posts of grant-in-aid would be created and the existing vacancies will also not be filled up, in the very same Memo it is stated that the general ban is not applicable for the posts for which permission was specifically granted by the

Government and accordingly permitted the petitioner therein to proceed with the selection process notwithstanding the ban imposed under the Memo dated 20-10-2004.

The learned Counsel for the petitioner submits that the ratio laid down in the said decision squarely applies to the case on hand and therefore the petitioner may be permitted to fill up the vacancies in question notwithstanding the ban imposed under Government Memo dated 20-10-2004.

The learned Government Pleader for School Education appearing for the respondents does not dispute the same.

Accordingly, the Writ Petition is disposed of with a direction to the third respondent to take necessary steps in accordance with law for conducting of the interviews by the petitioner society for filling up the vacancies in question not with standing the general ban imposed in the Government Memo dated 20-10-2004.

The Writ Petition is accordingly disposed of. No costs.

G.ROHINI, J

13th April, 2005

SKM

To

1 The Secretary to State of A.P., School Education,
Secretariat, Hyderabad.
2 Commissioner of School Education, A.P., Hyderabad.
3 District Educational Officer, Adilabad District, Adilabad.

3 Two C.Cs. to G.P. for School Education,

High Court Buildings, High Court of A.P., Hyderabad (OUT)

4 Two C.D. copies.

*Form-NIC-OGS/WP{**BJPR**}*